

IN THE COURT OF APPEALS OF IOWA

No. 6-270 / 06-0199
Filed June 14, 2006

**IN THE INTEREST OF A.B. and E.V.-L.,
Minor Children,**

**C.V.-L., Mother,
Appellant.**

Appeal from the Iowa District Court for Plymouth County, Jeffrey A. Neary,
Judge.

A mother appeals a juvenile court order terminating her parental rights.

AFFIRMED.

Joseph W. Flannery of Law Office of Joseph W. Flannery, P.C., Le Mars,
for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, Darin J. Raymond, County Attorney, and Amy Oetken,
Assistant Attorney General, for appellee State.

Dewey P. Sloan, Jr., Le Mars, for father I.V.-L.

John C. Polifka, Juvenile Law Center, Sioux City, guardian ad litem for
minor children.

Considered en banc.

PER CURIAM***I. Background Facts & Proceedings***

Carolyn is the mother of Angela, born in December 2001, and Esperanza, born in December 2003. Julio is the father of Angela, and Israel is the father of Esperanza. Angela was removed from Carolyn's care in November 2003 after Israel was arrested for sexually abusing another child, and there were concerns that he might have also sexually abused Angela. Angela was placed with the maternal grandmother. Carolyn then left the state and had Esperanza in California.

Angela was adjudicated to be a child in need of assistance (CINA) pursuant to Iowa Code sections 232.2(6)(c)(2) (2003) (child is likely to suffer harm due to parent's failure to supervise) and (d) (child is imminently likely to be sexually abused). By the dispositional hearing in February 2004, Carolyn had returned to Iowa with Esperanza. The juvenile court permitted them to move in with the maternal grandmother, where Angela was also living. Israel was not permitted to have contact with Angela.

Carolyn participated in services. Angela was returned to her care in May 2004. The no-contact order between Israel and Angela continued. Both children were removed in July 2004 because Carolyn was planning on reuniting with Israel and leaving the state. They were placed in foster care. Carolyn admitted using methamphetamine, even though she was pregnant at the time.¹ She began attending an outpatient treatment program. Esperanza was adjudicated

¹ Carolyn had a third child, Faith, in October 2004. Faith was removed immediately after her birth and placed in foster care. Faith died of sudden infant death syndrome while in foster care.

CINA under sections 232.2(6)(c), (d), and (n) (parent's mental condition results in child not receiving adequate care).

Carolyn continued to lack parenting skills. She failed to discipline the children during supervised visitation. Carolyn disregarded the suggestions of social workers. A psychological evaluation showed Carolyn had significant dependent and antisocial personality issues. The evaluation recommended that Carolyn "be supervised by DHS and/or its representatives for at least one year before considering return of the children in order to assure that Carolyn is able to establish and maintain a stable home environment." In May 2005, Israel was arrested for domestic abuse against Carolyn.

In September 2005, the State filed a petition seeking termination of the parents' rights. The juvenile court terminated Carolyn's parental rights under sections 232.116(1)(d) (2005) (child CINA for neglect, circumstances continue despite the receipt of services), (e) (child CINA, removed for six months, parent has not maintained significant and meaningful contact), and (h) (child three or younger, CINA, removed at least six months, and cannot be safely returned home).² The court concluded termination of Carolyn's parental rights was in the children's best interests.

II. Standard of Review

The scope of review in termination cases is *de novo*. *In re R.E.K.F.*, 698 N.W.2d 147, 149 (Iowa 2005). The grounds for termination must be proven by clear and convincing evidence. *In re T.B.*, 604 N.W.2d 660, 661 (Iowa 2000).

² The termination order also refers to Iowa Code section 232.116(1)(k). Because this section was not referred to in the petition, or in the request to amend the petition, we do not consider it on appeal.

Our primary concern is the best interest of the children. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000).

III. Sufficiency of the Evidence

Carolyn contends there is insufficient evidence in the record to support the termination of her parental rights. She asserts that she has remained sober for many months. She states that when she is on her medication for depression she does well, but admits she is not taking her medication due to pregnancy. She states she is currently out of the criminal justice system. Carolyn also claims she has sought out appropriate help for her male dependency issues. Carolyn believes the children could be returned to her care.

We find Carolyn's parental rights were properly terminated under section 232.116(1)(d), because the circumstances which led to the children's adjudications continued despite the receipt of services. Carolyn attended services, but was unable to improve her parenting skills. She disregarded the suggestions of social workers. As her psychological evaluation noted, she would need at least another year to work on issues in order to show the stability the children need.

We affirm the termination of Carolyn's parental rights.

AFFIRMED.